

State of Colorado



John W. Hickenlooper
Governor

Neil Peck
Board Chair

Dana Shea-Reid
Board Director

State Personnel Board
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Meeting Minutes
July 17, 2018

The State Personnel Board met in public session on Tuesday, July 17, 2018, at 1525 Sherman Street, First Floor Conference Room 104, Denver, Colorado 80203.

The meeting was called to order at 9:00 a.m. Board Members Vonda Hall, Maurie Knaizer, and Michelle Palmquist were present in person. Neil Peck participated via conference call. Nora Kelly was absent.

Dana Shea-Reid, Board Director and Leanne De Vos, Board Counsel were present in person.

**I. REPORT OF DEPARTMENT OF PERSONNEL AND ADMINISTRATION [DPA]
AND REPORT OF THE DIVISION OF HUMAN RESOURCES [DHR]**

**II. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE
ADMINISTRATIVE LAW JUDGES ON APPEAL TO THE STATE PERSONNEL
BOARD**

- A. Richard Dale Helmick v. Department of Transportation, State Personnel Board case number 2017B053.

After deliberation, the Board presented two motions. Mr. Knaizer moved to adopt the findings of fact and conclusions of law of the ALJ but to reverse the order of the ALJ regarding attorney fees to also include the award of attorney fees for Complaint's claims of accommodation and harassment. Mr. Peck seconded the motion. The motion carried on the affirmative vote of the following Board members: Ms. Hall, Mr. Knaizer, Ms. Palmquist and Mr. Peck.

In the second motion, Ms. Palmquist moved to remand the matter to the Administrative Law Judge to determine the award of back pay and attorney fees. Mr. Knaizer seconded the motion. The motion carried on the affirmative vote of the following Board members: Ms. Hall, Mr. Knaizer, Ms. Palmquist and Mr. Peck.

- B. Yi Yu v. Department of Public Safety, Colorado State Patrol, State Personnel

Board case number 2017B070.

Mr. Peck moved to adopt the findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge. Ms. Palmquist seconded the motion. The motion carried on the affirmative vote of the following Board members: Ms. Hall, Mr. Knaizer, Ms. Palmquist and Mr. Peck.

C. Jeffreyson Robert Gieck v. Governor's Office of Information Technology, State Personnel Board case number 2017G074.

The Board addressed two additional matters presented by the Complainant. The first was regarding Complainant's filing of what he titled as "Complainant's Petition for Reconsideration" and the second was Complainant's request for oral argument. Ms. Palmquist moved to accept Complainant's filing of "Complainant's Petition for Reconsideration" and consider it as his Reply Brief. Mr. Peck seconded the motion. The motion carried on the affirmative vote of the following Board members: Ms. Hall, Mr. Knaizer, Ms. Palmquist and Mr. Peck. The Board further denied Complainant's request for oral argument. Mr. Peck moved to adopt the findings of fact and conclusions of law of the Administrative Law Judge in the Order Dismissing the Case for Lack of Jurisdiction. Mr. Knaizer seconded the motion. The motion carried on the affirmative vote of the following Board members: Mr. Knaizer, Ms. Palmquist and Mr. Peck. Ms. Hall voted in opposition asserting the Complainant performed duties for state agencies and should be considered a classified employee and further, she felt the Board did have jurisdiction in its interpretation of the Constitution.

III. REVIEW OF PRELIMINARY RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGES TO GRANT OR DENY PETITIONS FOR HEARING

There were no Preliminary Recommendations of the Administrative Law Judges for review.

IV. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES

After the Board packets were mailed, an Initial Decision was issued on July 13, 2018 regarding Ricci v. Department of Military and Veteran's Affairs, State Personnel Board case number 2018B019.

In order to preserve the Board's ability to review an Initial Decision within 30 days of issuance, the Board, on its own motion, voted to defer to August 21, 2018 its review of the Initial Decision issued by the Administrative Law Judge on July 13, 2018.

V. REVIEW OF THE MINUTES FROM THE JUNE 19, 2018 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

Ms. Palmquist moved to approve the minutes as amended. Mr. Peck seconded the motion. The motion passed on the affirmative vote of the following Board members: Mr. Knaizer, Ms. Palmquist and Mr. Peck. Ms. Hall abstained as she was not present at the meeting.

VI. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS JUNE 19, 2018 PUBLIC MEETING:

- A. Janet R. Kipp v. Department of Corrections, State Personnel Board case number 2018S031.

The Board voted to adopt the Preliminary Recommendation of the ALJ and deny the petition for hearing and referred the matter to the State Personnel Director for review.

- B. Kevin Sanchez v. Department of Corrections, State Personnel Board case number 2018S042.

The Board voted to adopt the Preliminary Recommendation of the ALJ and deny the petition for hearing.

- C. Katherine Forde v. Department of Corrections, State Personnel Board case number 2018G035.

The Board voted to adopt the Preliminary Recommendation of the ALJ and deny the petition for hearing.

VII. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

Board Counsel De Vos updated the Board on the status of appeals: An appeal was filed by Matthew McNew (v. Department of Public Safety), regarding the Board's denial of a whistleblower claim. Oral argument for McCauley v. DOR is scheduled for July 24, 2018. The briefing on Stiles v. DOC is complete and an oral argument will be set sometime in Fall, 2018. In Meiderhoff v. DOT, Complainant has filed an appeal of the Board's denial of a discretionary hearing.

Counsel De Vos suggested that the training session for the Board that was scheduled for July 17 be rescheduled to August 21 in order that the full Board will be in attendance.

B. OTHER BOARD BUSINESS

Director's Report:

- Director Shea-Reid reported that Board member Nora Kelly was the sole nominee by certified state employees for election to the Board and she was certified by the Director for a second term on the Board. No election was required.

- A finalist has been selected for the position of Board Assistant and Director Shea-Reid is completing the background check. The Director noted that Senior Board Assistant Andrea Woods has once again assumed the duties of the vacant position as well as her own. Mr. Peck acknowledged Ms. Wood's contributions to the Board and all of her extra work.

C. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS,
PERSONNEL ADMINISTRATORS, AND THE PUBLIC

VIII. PROPOSED LEGISLATION OR RULEMAKING

IX. EXECUTIVE SESSION

The Board meeting adjourned by consensus at 9:41 a.m.

DATED THIS 21st DAY OF AUGUST, 2018.

SIGNATURES

Neil Peck, Board Chair

Michelle Palmquist, Vice Chair

Vonda Hall, Member

Maurie Knaizer, Member
